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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,930	03/16/2005	Wolfgang Schafer	RO0977US (#90568)	8584

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EXAMINER

MCCLELLAND, KIMBERLY KEIL

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/527,930	Applicant(s) SCHAFFER ET AL.	
	Examiner Kimberly K. McClelland	Art Unit 1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/16/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

2. The abstract of the disclosure is objected to because the abstract in an application filed under 35 U.S.C. 111 may not exceed 150 words in length. Also, the abstract should not reference the drawings. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Firstly, the phrase "active substance film" is unclear. Does this term require a specific material or composition? The specification fails to clarify this term by providing examples or possible compositions. For the purposes of examination, examiner assumes an active substance film is any film with a front end, two sides and a predetermined length.

5. Also, the term "wafer" is unclear. In reference to claim 1, applicant states, "detaching said active substance film from the carrier and the wafer" in line 8, but in lines 27-28, applicant discloses, "cutting said active substance film at a distance from said two packaging material webs to form a wafer." For the purposes of examination, examiner assumes the term wafer refers to a cut portion of the active substance film.

6. In reference to claim 1, applicant discloses two sealing steps (lines 15 and 33), but only discloses one sealing step in the specification (See page 6, and Figure 1). Applicant also discloses two cutting steps in claim 1 (lines 6, 27) but only one cutting step in the specification (See page 6, and Figure 1).

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-5 rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Patent No. 6,655,112 to Cremer et al.

9. With respect to claim 1, Cremer et al. discloses a method of packaging film-like shapes, including providing a laminate comprising a carrier sheet (14) and an active substance film having a front end, two sides and a predetermined length (4); cross-cutting the active substance film at the active substance film predetermined length (15); and detaching said active substance film from the carrier sheet and the wafer (18), providing two packaging material webs (1, 2) and guiding said active substance film between said two packaging webs (3); conveying said active substance film and said two packaging material webs forwardly to a sealing station (3); sealing the packaging material webs to form a bag (7); separating said bag from said two packaging material webs (10), pulling said carrier sheet forward over the predetermined length of the wafer, and simultaneously guiding the active substance film without subjecting said active substance film to mechanical stress said active substance film front end being between said two packaging material webs while said two packaging material webs are in a resting condition, said active substance film being received by said two packaging material webs; transversely cutting said active substance film at a distance from said two packaging material webs to form a wafer of the wafer predetermined length (15); pulling the wafer forward together and synchronously

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with said two packaging webs; conveying the wafer to a sealing station (7); and sealing the packaging material webs outside the area of the wafer, said wafer being fixed between said two packaging material webs (See Figures 1 and 2, and column 7, lines 23-53).

10. As to claim 2, Cremer et al. discloses the step of guiding the active substance film (4) in a vertical alignment between said two packaging material webs (1, 2) and feeding said two packaging material webs in on both sides of the active substance film (See Figures 1 and 2).

11. As to claim 3, Cremer et al. discloses the step of detaching said active substance film comprises the step of detaching said active substance film from the carrier sheet on a device selected from the group consisting of an edge (16) or a deflecting roll (18, See Figure 2).

12. As to claim 4, Cremer et al. discloses arranging stripping device (16) between the active substance film and the carrier sheet (See Figure 2)

13. As to claim 5, Cremer et al. discloses guiding said two packaging material webs over a clamping device (3) during the detaching of the wafer from the active substance film and during the forward conveying of said two packaging material webs and pressing the said two packaging material webs against the active substance film to prevent relative motion between the wafer and the packaging material (See Figure 2).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,655,112 to Cremer et al. and in view of U.S. Patent No. 5,182,128 to Laplace.

16. With respect to claim 6, Cremer et al. discloses a supply device for a laminate, including an active substance film having a front end (4) and a carrier sheet (14); a separating roll for detaching the said active substance film from the carrier sheet (18); a pulling device for the carrier sheet and for the active substance film (wind-up roll); a crosscutting device for cutting the active substance film (15); a device for feeding and pulling two packaging material webs (3), said device for feeding and pulling the packaging material webs comprising a receiving and clamping device for the front end of the active substance film, said receiving and clamping device being arranged in a vertical direction below the separating roll and below the crosscutting device (3); a heatable sealing tool for sealing the packaging material (7); and a cutting device for separating the side-sealed bag (10, See Figures 1 and 2, and column 7, lines 11-53). However, Cremer et al. is silent as to the orientation of the device.

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17. Laplace discloses an apparatus for producing wrapped food, including the device is operated vertically (See Figure 1). It would have been obvious to operate the packaging unit of Cremer et al. vertically, as taught by Laplace. The motivation would have been to improve feeding to the assembly and prevent blockage in the assembly (column 1, lines 30-40). Therefore, it would have been obvious to combine Laplace with Cremer et al. to obtain the invention as disclosed in claim 6.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,655,112 to Cremer et al. as applied to claim 6 above, and further in view of U.S. Patent No. 5,985,088 to Couillard et al. in view of U.S. Patent No. 6,761,016 to Laplace.

18. With respect to claim 7, Cremer et al. discloses a method of packaging film-like shapes, including a clamping device (3, See Figure 2). However, Cremer et al. and Laplace do not disclose the clamping device is movable.

19. Couillard et al. discloses a method for an improved roller machine, including the receiving and clamping device comprises at least one pair of roller said two packaging material webs being conveyed between said at least one pair of clamping rollers securing the active substance film, and being transversely movable relative to each other and in an opposite direction relative to each other (column 4, lines 57-63). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the clamping rollers of Couillard et al. for the clamping rollers of Cremer et al. in the device of packaging

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film-like shapes. The motivation would have been to accommodate different thicknesses of the film (column 4, lines 57-60). Therefore, it would have been obvious to combine Couillard et al. with Cremer et al. and Laplace to obtain the invention as disclosed in claim 7.

20. As to claim 8, Cremer et al. discloses a method of packaging film-like shapes, including a clamping device (3, See Figure 2). However, Cremer et al. and Laplace do not disclose the clamping device is movable.

21. Couillard et al. discloses a method for an improved roller machine, including two pairs of clamping rollers are arranged one above the other (See Figure 2, and column 4, lines 57-63). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the clamping rollers of Couillard et al. for the clamping rollers of Cremer et al. in the device of packaging film-like shapes. The motivation would have been to accommodate different thicknesses of the film (column 4, lines 57-60). Therefore, it would have been obvious to combine Couillard et al. with Cremer et al. and Laplace to obtain the invention as disclosed in claim 8.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly K. McClelland whose telephone number is (571) 272-2372. The examiner can normally be reached on 8:00 a.m.- 5 p.m. Mon-Fri..

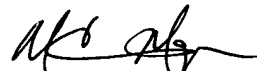
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris A. Fiorilla can be reached on (571)272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KKM


CURTIS HAYES
PRIMARY EXAMINER